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TAKKANOT 'EZRA

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AN ancient Baraita in the Talmud¹ ascribes to Ezra ten *takkanot*. These, as explained by the compilers of the Talmud, are not definitely clear to us. In fact, for a long time many have been astonished by the Baraita's ascribing them to Ezra. Moreover, when we investigate Rabbinic sources, we find that to the editors of the Talmud the *takkanot* presented difficulties, as some of these *takkanot* had been considered as already contained in the Torah. However, it is evident that the sources of these *takkanot* were unknown to the Rabbis,² and also the underlying causes and reasons. As we investigate these *takkanot* carefully and thoroughly we realize their significance in Jewish religious life. The Pharisees, who, animated by the general purpose to harmonize religion and life, brought about reforms in religious life, e. g. the laws of *Eruv* that made the Sabbath less burdensome,³ also made important reforms in the laws of clean and unclean, that were extremely burdensome to Israel if literally construed and enforced according to the Torah. For example, such as were suddenly affected by bodily impurity (*noctis pollutio*, קרי) or defiled by contact with a corpse would, by literal interpretation of the Torah,

¹ B. Baba ḥamma 82 a ; Pal. Megillah IV, 1, 75 a.

² See Weiss, *Dor Dor we-Doreschaw*, II, 66.

³ Concerning the time when Solomon introduced the device of 'erubin' (Erubin 21 a and Shabbat 14 b) see Geiger in *he-Ḥaluṣ*, VI, and also Derenbourg, *Essai sur l'Histoire de la Palestine*, p. 144.

have to depart from the city,⁴ the law being as severe in their case as in the case of those having a contagious disease like leprosy. It would have been impracticable in the period, when the Jewish people were at the pinnacle of their intellectual and material development, that a person merely by reason of such an occurrence should be constrained to give up communal life and leave the city. So the Sages amended the law in accordance with the new requirements. Such men as these, having no contagious disease (including those affected by *noctis pollutio*, and others), were merely incapacitated from entering the Temple-court or the Sanctuary, but were not compelled to keep apart from their fellow citizens and leave the city.⁵

Now we will examine the *taḥḥanot* themselves, that the Baraita ascribes to Ezra. This is the list: (1) Reading from the Scroll at Sabbath afternoon service; (2) Reading from the Scroll at morning service on Mondays and Thursdays;⁶ (3) Holding court on Mondays and Thursdays; (4) Ritual bath (*tebilah*) for בעלי קרי; (5) Eating garlic on Eve of Sabbath; (6) Washing clothes [giving them out to be washed] on Thursdays; (7) That a woman should rise early and bake; (8) That a woman should gird herself with a belt; (9) That pedlars should carry about their wares in the cities; (10) That a woman should dress her hair before immersion.

The first three, concerning the reading from the Pentateuch on Sabbath afternoon, and on Monday and Thursday

⁴ Num. 5. 2; Deut. 23. 11.

⁵ Pesahim 67 and 68.

⁶ In Pal. Megillah, *ibid.*, the *taḥḥanot* to read from the Scroll during Minḥah of Sabbath and on Monday and Thursday are reckoned as one *taḥḥanah*; and there is another to complete the list, viz. שיהיו הנשים מדברותו עם זו בבית הכנסא. But this, we are informed in the Talmud Babli (Sanhedrin 19a), was a ruling of R. Jose in Sepphoris.

mornings, and sessions of court on Mondays and Thursdays, are fairly intelligible to us.⁷ The fourth *takkanah* concerning the requirement that a *בעל קרי* must receive or undergo *tebilah*, seems thus to have been understood by the compilers of the Talmud, and so the Gemara asks in reference thereto: 'Is this not known from the Torah—that one who has experienced pollution should undergo *tebilah*?'⁸ But such is not the real purport of the *takkanah*; there is involved in it a reform in the laws of purification. As we have noted above, originally it was incumbent on the *בעל קרי* to leave the camp, to undergo *tebilah*, and thereafter to wait until evening (after sunset he became clean).⁹ For historical evidence that such was at one time the Jewish law, note what King Saul said when David failed to appear at his father-in-law's table: *מקרה לא טהור*; ¹⁰ the expressions he uses are quite consonant with the obligation of a man suddenly confronted with pollution to leave the city, and the observance of such a law might not be felt as a hardship or obstacle in such a small kingdom.

However, what was not felt to impede progress in the days of Saul was felt by the Pharisees to be a great hindrance in their desire to bring about agreement between religion and a larger life. By their method of exegesis they explained *מחנה* (camp) as *מחנה שכינה* (camp wherein the Shechinah resided); therefore the law of temporary banishment could apply only to the Sanctuary proper, and to the 'Azarah, known also as *מחנה ליהוה* 'camp of the Levite group', and not to the whole city.¹¹

⁷ See Derenbourg, *ibid.*, pp. 22-3.

⁸ Lev. 15. 16; Deut. 23. 12.

⁹ *Ibid.*

¹⁰ 1 Sam. 20. 24-6.

¹¹ See Zeitlin, 'Les dix-huit Mésures', *Revue des Études Juives*, LXVIII, p. 29; Pesahim 68 a; Sifre, 255.

Similarly in the matter of *sunset*. For according to the Torah, mere bathing of the body in water would not have been deemed sufficient to render a person pure, unless the sun had set on him thereafter, and he is called by the Talmud טבול-יום. The Sages then ordained that, if he had taken the prescribed bath, he was *ipso facto* pure, and relieved of the necessity of waiting until sunset.¹² This reform the Talmud ascribes to Ezra in these words, הוא חיון טבילה, לבעלי קרי meaning to say, that it is sufficient for him to undergo *ṭebilah*, as he need not leave the city nor concern himself as to when the sun will set.

The law of טבול-יום, according to which *ṭebilah* alone does not suffice, but it is necessary to wait for sunset, the Pharisees made, by their decree, apply in cases of *terumah*—if a priest was unclean, he would not only have to undergo *ṭebilah*, but be inhibited from eating *terumah* until night.^{12a} This is one of the 'Eighteen Measures' that were decreed by Bet Shammai and Bet Hillel.¹³ And

מה ישראל שאינם אוכלים בחרומה במעורבי שמש : 1: Sifra Emor 4, 1: מה ישראל שאינם אוכלים בחרומה במעורבי שמש. הרי הן אוכלים במעשר טבול יום מעשר נאכל : 6: Tosefta Parah 3, 6: הרי הן אוכלים במעשר טבול יום. בטבול יום.

יטמא עד הערב . . . טהור לחולין מבעור יום ולתרומה משתחשך : 8: Sifra Shemini 8: יטמא עד הערב . . . טהור לחולין מבעור יום ולתרומה משתחשך.

¹³ See Zeitlin, *ibid.* This decree was a consequence of the Pharisees' hostility to the priesthood, which was particularly strong in the last days of the Second Temple, so strong indeed that they virtually decreed that almost everything disqualified *terumah*, and *terumah* disqualified had to be burnt (see my article, *ibid.*); and also that almost everything rendered the priest unclean and unfit to eat *terumah* and *ḥodesh*, going so far as to say that if any man (of the priesthood) carried any object on his shoulder, though it touched nothing unclean, still some object polluted might be lying underground as far down as the spade might dig—and who knows but that there might be some pollution at that depth?—consequently it would also render unclean the man who carried the object (see *Ohalot* 16. 1). In line, possibly, with this general principle, they made the ruling that the

now we are able to understand the controversy between the Pharisees and the Sadducees in the matter of the burning of the Red Heifer. The Sadducees, adhering as they did to the old Halakah, and basing their arguments on the plain meaning of Scripture, said: When is a man purged of his uncleanness? After sunset. *Tebilah* alone does not render him pure. As the priest who burns the Red Heifer must be pure,¹⁴ and we are apprehensive lest by accident he come under the head of *מקרה לא טהור*, or lest his brother priests have touched him, in which case the *tebilah* (ablution) would not have the immediate effect of purging him and qualifying him to burn the Heifer—therefore the Sadducees considered it necessary to defer that burning until after sunset.

The Pharisees, however, who had adopted the principle that, if one took the prescribed bath, he is rendered pure without waiting for the sun to set, said the priest may burn the Heifer before sunset, immediately after *tebilah*.

As for the pomp wherewith the ceremony of the Red Heifer was surrounded, the purpose of the Pharisees was

priests should not eat of *terumah* until after sunset, apprehending that the priest might have been contaminated by some object, and maintaining, as they did, that for eating of *terumah* immersion did not suffice, but that setting of the sun was necessary, consequently *terumah* could not be eaten in the day-time. This makes intelligible the first Mishnah of the Talmud, as, after asking from what time we are allowed to read *שמע*, it says, when the priests begin to eat *terumah*: *מאימתי קורין את שמע בערבית משעה*: *שהכהנים נכנסים לאכול בתרומתן*. The Talmud is astonished, asking why the Mishnah does not in so many words say 'from the appearance of the stars'. But if we say that the Sages decreed that the priests should not eat *terumah* until after sunset, that is, until nightfall, the Mishnah very clearly indicates to us when we can read the *שמע*, when the priests gather to eat their *terumah*, which did actually serve the people as a criterion whereby, the sun having set, they might know that they could read the *שמע*.

¹⁴ Num. 19. 5-9.

to demonstrate in public that their view had won recognition. They actually defiled the priest who was to burn the Heifer. **ובית מבילה היתה שם**—A pool was there in which he could immerse his whole body, after which he might burn the Heifer, without waiting for the sun to set—all this the Pharisees did, **יהו אומרים במעורבי**, מפני הצדוקים שלא¹⁵ **שמש היתה נעשית** 'so that the Sadducees should not have occasion to say that it had to be done at sunset'.

This is the reason underlying the difference between the Pharisees and the Sadducees in the matter of the burning of the Red Heifer, namely, the principle of **טבול יום**, and not, as is generally believed, that the Sadducees were more exacting in the matter of the purity of the priest who burned the Heifer, and the Pharisees less exacting, less scrupulous.

The fifth *takkanah* is 'to eat garlic on the eve of the Sabbath'. The Talmud's explanation, that garlic is a **מכניס אהבה**, induces love, and that Friday night is the **זמן עונה**, makes thereof a strange, grotesque *takkanah*, and long ago many expressed surprise that a Baraita should ascribe it to Ezra, particularly as the making Sabbath eve the **זמן עונה** is one of the most recent things in the Talmud.¹⁶ This *takkanah* has, in my opinion, no connexion with **עונה**, but was really a great and significant reform in the development of the laws of clean and unclean. Originally, they did not permit the eating of garlic, because before plucking it from the ground they moistened it with water,¹⁷ and by this pouring of water upon it they rendered it susceptible

¹⁵ Parah 3. 7 ; Tosefta, *ibid*.

¹⁶ Ketubot 62 b.

¹⁷ Tosefta Makshirin 3. 3 : **הילפתא בן קוניא אומר שום בעל בכי טמא** : מפני שמרבצין עליו במים ואחר כך קולעין אותו. They evidently were in the habit of pouring water upon it before plucking, as it was so sharp as to produce tears in those who ate it.

of becoming unclean. For in Leviticus 11. 38 the expression occurs **וְכִי יִתֵּן מִיָּם עַל זֶרַע**. However, the earlier Sages so revised the Law, that seed is rendered susceptible of receiving impurity through the pouring of water thereon, only when detached, not when attached (by nature) to the soil (Sifra Shemini 11, 3); and this *taḳkanah* the Talmud ascribes to Ezra.¹⁸ What hitherto was obscure now becomes clear—we are able to understand a Mishnah in Yadaim 4 which brings in a disputation between the Sadducees and the Pharisees: **אומרים צדוקים קובלים אנו עליכם פרושים שאתם מטהרים את הנצוק; ואומרים הפרושים קובלים אנו עליכם צדוקים שאתם** 'The Sadducees say, We complain against you, Pharisees, because ye declare clean the **נצוק**. The Pharisees say, We complain against you, Sadducees, that ye declare clean the stream of water that comes from the cemetery.' All the commentators who have discussed this Mishnah, and all the scholars who have spoken about the matters of dispute between the Pharisees and the Sadducees, have taken for granted that the word **נִצּוֹק** implies pouring from one vessel into another, and hence they interpret the Sadducees as saying, 'We find fault with you, O Pharisees, because in case a man

¹⁸ This enables us to understand the answer the Sages gave Ḥalafta ben Ḳonia: **אם כן יהא טמא לחילפתא בן קוינא ומתור לכל ישראל**: (Tosefta, *ibid.*), equivalent to saying, 'Ye who do not avail yourselves of the *taḳkanah*, that seed never becomes susceptible of uncleanness through pouring thereon of water save when detached from the soil, have occasion to investigate, but not the great bulk of Israel who abide by that *taḳkanah*; for them it is clean and unquestionably permissible as food'. Similarly they disposed of the objection that Joshua ben Peraḥiah made to importing wheat from Egypt, where, as no rain falls, water is necessarily poured upon the seed, making it, according to that teacher, susceptible of uncleanness. The Sages, applying to Egyptian wheat the ruling concerning that which was attached to the soil, observed that it might be unclean for Joshua ben Peraḥiah but not for the vast body of Israel who abided by the *taḳkanah*.

pours a liquid from a clean vessel into a vessel that is unclean ye maintain that what is left in the upper vessel remains clean', and that the Pharisees rejoin thereto, 'We have as much right to find fault with you that ye declare clean the stream of water that issues from a cemetery'. This interpretation of the Mishnah appears to me unacceptable. For, aside from our not being able to find any evidence that the Sadducees ever declared unclean the water that remained in the upper vessel when part thereof had been poured into an unclean vessel, and aside from inability to see whereon they could base such a view—according to this interpretation, the answer that the Pharisees give does not fit in with the question that the Sadducees propound. The Sadducees are thus represented as asking why they (the Pharisees) declare clean the water in the upper vessel when a part has been poured therefrom into an unclean vessel, and the Pharisees are represented as answering with the query, why they (the Sadducees) declare clean the water that issues from the cemetery—which is wholly irrelevant and bears no relation to the original question.

The word נִצִּיק which almost everywhere has the connotation of pouring out from one vessel into another, has, it appears to me, misled the commentators; they thought that in this passage also it had that connotation. Here, however, נִצִּיק, nif'al of נָצַק, refers to the status of that which has received the water. The dispute resolves itself thus: 'The Sadducees say, We object to your declaring seed clean in case water has been poured thereon—we mean that ye make distinction (as far as the Law is concerned) between that which is attached to the soil and that which is detached—which is above the ground, and claim that

in case water is poured on the seed while it is attached to the soil, that seed does not become susceptible of receiving pollution; that only when the seed has been removed from the ground does the pouring of water thereon render it susceptible of impurity.' To this, the answer of the Pharisees appears to be directed, and in fact proves that to have been the purport and burden of the question; for the rejoinder is virtually, 'Do ye not also make a similar distinction in the matter of defilement between that which is attached to the ground and that which is detached, when ye admit that the stream of water, though coming from a cemetery (than which nothing is more unclean), is clean, because the stream of water is attached to the soil?'¹⁹

That the eating of garlic served as a means of emphasizing some principle we can see from another Mishnah, also very ancient.²⁰ He that forswears benefit from 'men who rest on the Sabbath' is forbidden to derive benefit from Cutheans as well as Israelites, since the Cutheans, though they do not regard as binding the *taḳkanot* and *gezerot* added by the Sages (e. g. the *Erub*), do rest on Sabbath in conformity with the Torah. He that forswears benefit from 'men who eat garlic' is forbidden in case of Israelites, and permitted in case of Cutheans. The reason in the latter case is that the Cutheans adhered to the old Halakah based on Scripture, and consequently did not eat garlic, because before plucking it from the ground, it was customary to wet it, pouring water upon it, and thereby

¹⁹ R. Leszynsky, *Die Sadduzäer*, pp. 38-43, says that נִצְּוֹק in this passage means 'honey'. See also Geiger, *Urschrift*, p. 147; Derenbourg, *Essai*, p. 134.

²⁰ Nedarim 3. 10: הַנּוֹדֵר בְּשׁוּבְתֵי שַׁבַּת אִסּוּר בְּיִשְׂרָאֵל וְאִסּוּר בְּכוֹתִים, מֵאֹכְלֵי שׁוּם אִסּוּר בְּיִשְׂרָאֵל וְמוֹתֵר בְּכוֹתִים is the correct reading. See Bet Joseph, *Tur Yoreh De'ah*, § 214.

it was rendered susceptible of becoming unclean ; and since the Torah makes no distinction between detached from and attached to the soil, and the emendation of the Sages, that only such seed as is detached is susceptible of receiving defilement, but not that which is attached to the soil, had not been adopted by the Samaritans. Hence, he who had forsworn benefit from people who ate garlic was regarded as not having included Cutheans in his vow, since they did not eat garlic, whereas he was forbidden benefit from Israelites, who having accepted the *takkanah* of the Sages, did eat garlic. Now we can understand why this (fifth) *takkanah* was considered so important as to be ascribed to Ezra.²¹

The sixth *takkanah*, שיהיו מכבסין בחמישי בשבת, evidently permitted giving garments to the launderers on Thursdays. This accords well with the Hillelite Halakah that allows giving work to a Gentile three days before the Sabbath, though it is probable that he may not finish it before Sabbath. See Shabbat 11 a.²²

The seventh *takkanah*, שתהא אשה משכמת ואופה, is explained in the Talmud to mean, the housewife should get up early to bake in order to give of her bread to the poor man. According to my opinion, this *takkanah* also bore some relation to Sabbath observance, particularly as in the Palestinian Talmud, the reading is שיהיו אופין פת בערבי שבתות ; that is, this regulation had for its purpose, that on Fridays baking should be begun in time for a crust to be

²¹ In ordaining that garlic be eaten on Sabbath eve the Sages appear to have availed themselves of a custom that already existed (Nedarim 8. 6), and by sanctioning it to have given concrete expression to their views.

²² R. Zadok says that in Rabban Gamaliel's house they used to give clothes to the launderer three days before Sabbath, see *ibid*.

formed on the bread while it was still day (see Shabbat 19 and last Mishnah of Shabbat 1). This *takkanah* emanated from the Hillelite school; the Shammaite school, however, insisted that the work must be completely finished before sunset (Shabbat 1. 4-11).

The eighth *takkanah*, שְׁתָּהָא אִשָּׁה חוֹגֶרֶת בְּסִנֵּר, the Talmud regards as designed to promote modesty in behaviour. The etymology of סִנֵּר is a bit obscure. Rashi says that 'Senar' is a pair of *trousers*. Apparently the purpose of the *takkanah* was, as explained in the Talmud, to promote modest behaviour; the essence thereof accordingly would have been: though trousers are originally included in men's garments which are *ipso facto* forbidden to women, still since the wearing of them by women will be promotive of modesty, we commend and even recommend the new custom. Or it is possible that the *takkanah* was required by reason of the סִנֵּר being a garment of foreign origin, whether in vogue among the Persians (زَنْجَارِي) or identical with the ζωνάριον (belt) in vogue among the Greeks; however, צְנִיעוּת, or feminine delicacy, motivated the reform in dress.

The ninth *takkanah*, שִׁיהִיו רוֹכְלִין מְחֻרְזִין בְּעִירֵיהֶן, is regarded in the Talmud as facilitating the sale of women's ornaments. It seemed better that the pedlars should carry their stock into all parts of the cities rather than that by their coming into the houses jealousy of the husbands be aroused, and domestic unpleasantness result—so the sales should be negotiated on the street.²³ In the Yerushalmi,

²³ Yebamot 24 b. In case a pedlar is seen leaving the house and his wife girding herself with a 'Senar', the husband has the right to divorce her without dower. See *ibid.*, 63 b, where the Talmud quotes Ben Sira as saying: רַבִּים הָיוּ פֹּצְעֵי רוֹכֵל הַמְּרִיגִילִים לְדַבֵּר עִבְרָה.

in connexion with the pedlars hawking their wares in the open, the expression is used מִפְּנֵי כְבוֹדָן שֶׁל בְּנוֹת יִשְׂרָאֵל 'on account of the dignity of the daughters of Israel', and after this they made a regulation that the citizens must not prevent these pedlars from freely moving about to sell their wares.²⁴

The tenth *takkanah*, שְׁתֵּהא אִשָּׁה חוּפֶפֶת וּמוֹבֵלָה, evokes expressions of surprise in the Babylonian Talmud, to this effect: Since according to the ordinance of the Torah a woman must dress her hair before taking the ritual bath, wherein does the *takkanah* consist? what new element does it contain? Had the redactors of the Babylonian Talmud been aware in this case of the Palestinian Gemara, they would not have asked this question, for there they would have seen הוּא (עזרא) הִתְקִין שְׁתֵּהא אִשָּׁה חוּפֶפֶת קודֶם לְמַהֲרָתָה שְׁלֹשָׁה יָמִים 'He (Ezra) amended the law, so that a woman might dress her hair three days before her purification'.

The reason for the *takkanah* was as follows: When a woman at the close of her separation period desired to cast off her uncleanness, she had to take the prescribed ritual bath at night;²⁵ the dressing of her hair had (originally) to be on the day immediately preceding her *tebilah*.²⁶ However, if her time for *tebilah* fell on Saturday night or on a Sunday night, Sunday itself being Yom Ṭob, and so she could not by reason of the sanctity of Sabbath or of Yom Ṭob cleanse and comb her hair—what was

²⁴ This *takkanah*, that the citizens should not hamper the pedlars in their efforts to sell their goods, was made because these men, who had formerly entered houses, were now, out of regard for the reputation of Jewish women, disallowed to enter houses; the merchants of the city were, therefore, not to hinder them from exercising the privilege granted by the other *takkanah* of going about in the cities to sell their wares. See Baba batra 22 a.

²⁵ Yoma 6 a.

²⁶ See Niddah 67 b and 68 a.

there for her to do? Then the Sages ordained that in case the night for *tebilah* of a Niddah was at the conclusion of Sabbath, or at the close of the festival of Rosh-ha-Shanah that fell on Thursday and Friday, making it impossible for her to cleanse and comb her hair immediately previous to her *tebilah*, she might instead cleanse and comb her hair on Friday, that is, three days before her purification.²⁷ This was the *takkanah* that the Talmud ascribed to Ezra.

Now we can fully understand why just these *takkanot* were ascribed to Ezra, inasmuch as we have seen their importance and their value in the development of the laws of *טומאה וטהרה*, the laws of the Sabbath, and in domestic life.

As for the time of these *takkanot*, Weiss²⁸ has well shown that they do not go back to Ezra's day. In my opinion, they were instituted neither by one man nor in one period, but were the results of the evolution of the ancient Halakot according to the demands of the time, some of these *takkanot* being very ancient, and others not quite so ancient. The *takkanot* in the matter of *טומאה וטהרה* are very ancient, e.g. the '*takkanot shum*', that the only time that seed becomes susceptible of receiving pollution is when it is detached from the soil. That it is very old is seen by what is stated of Joshua ben Peraḥiah as opposed thereto.²⁹ The *takkanot* or amendments in the laws of Sabbath enabling the Jews to give clothes to the launderer on Thursday, and to bake bread on Friday while it was day, are from the times of Bet Hillel and Bet Shammai;³⁰

²⁷ The Babylonian Amoraim were divided in opinion on this matter. See Niddah, *ibid*.

²⁸ *Dor Dor we-Doreschaw*, II, p. 66.

²⁹ See Tosefta Makshirin 3. 4.

³⁰ It is very likely that this *takkanah* about reading from the Scroll

therein we can see traces of how the ancient Halakot were remoulded, and how the Pharisees strove to bring the religion into consonance with life, and to amend the Pentateuchal law, if such were life's demands.

during the Sabbath afternoon service was instituted at the close of the period of the Second Temple, the purpose being (on Sabbaths) to restrict it to the afternoon, as the Sages preferred that the people free from work should go to the Bet-ha-Midrash to hear the exposition of the Sages and not read the Holy Scriptures, and therefore they decided that reading of the Scriptures was permissible on Sabbath from Minḥah and after. And this we find in a Tosefta (Shabbat 14): אף על פי שאמרו אין קורין בכתבי הקדש, and we also find in the Talmud that it is not allowed to read the Scriptures until the afternoon service: אין קורין בכתבי קדש אלא מן המנחה ולמעלה (Pal. Shabbat 15c); and also the question arose among the Amoraim: If the fifteenth of Adar falls on a Sabbath, what should be done in regard to reading of Megillat Esther, as it is forbidden to read from the Scriptures before Minḥah (J. Megila 74 b)? See S. Zeitlin, 'Les dix-huit Mesures', *RÉJ.*, LXVIII, pp. 34-5.